

Decision 02-12-033 December 17, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC
COMPANY, a California Corporation, for a
Permit To Construct the Atlantic-Del Mar
Reinforcement Project Pursuant to General
Order 131-D. (U 39 E)

Application 01-07-004
(Filed July 9, 2001)

**ORDER PURSUANT TO RULE 6.5 OF
THE RULES OF PRACTICE AND PROCEDURE**

Pursuant to Rule 6.1 of the Rules of Practice and Procedure, the Commission preliminarily determined in Resolution ALJ 176-3067 that the above-entitled matter is a ratesetting proceeding expected to go to hearing. By Assigned Commissioner's Ruling dated October 16, 2002, Assigned Commissioner Duque found the need for hearing determination should be changed. We have considered our preliminary determination on this matter and the assigned Commissioner's ruling. We affirm the Assigned Commissioner's ruling.

Rule 6.5 concerns changes in the need for hearing or preliminary categorization of a proceeding. Rule 6.5 provides that a change in the preliminary determination on the need for hearing shall be placed on the Commission's consent agenda for approval.

Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice

and Procedure. Comments were filed on November 6, 2002, jointly by the Preserve at Creekside LLC and Antelope Creek Apartments, L. P. (Preserve). No reply comments were filed. Preserve comments that changing the hearing designation would deprive parties of the right provided in Rule 17.1(g) to request hearings based on their review of the Revised Draft Mitigated Negative Declaration. In fact, no such request has been received. Therefore, no changes have been made to the outcome of the decision.

Assignment of Proceeding

Henry Duque is the Assigned Commissioner and Michelle Cooke is the assigned Administrative Law Judge in this proceeding.

IT IS ORDERED that:

1. This proceeding does not require that hearings be held.
2. Under Rule 6.6, this order is a final determination that a hearing is not needed in this proceeding.
3. Ex parte communications shall be permitted, as provided in Rule 7(e). In all other respects, the rules and procedures in Article 2.5 of the Commission's Rules shall cease to apply to this proceeding. However, the proposed schedule and scope of issues contained in the scoping memo shall continue to apply.

This order is effective today.

Dated December 17, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners

